

**CRIMINAL TRESPASS AMENDMENTS**

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Scott H. Chew**

Senate Sponsor: Scott D. Sandall

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**LONG TITLE**

**General Description:**

This bill addresses criminal trespass on private property related to use of public waters.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ establishes the elements of and penalty for certain criminal trespass;
- ▶ specifies certain defenses; and
- ▶ provides for statutory damages, attorney fees, and court costs.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

ENACTS:

**76-6-206.5**, Utah Code Annotated 1953

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **76-6-206.5** is enacted to read:

**76-6-206.5. Criminal trespass on private property for recreational purposes related to use of public waters.**

(1) (a) As used in this section:

- 29            (i) "Bank" means the land within three feet of a public water.
- 30            (ii) "Private property" means the bed or bank of a non-navigable freshwater stream or
- 31 river that flows through privately owned land and is privately owned.
- 32            (iii) "Private property to which access is restricted" means the same as that term is
- 33 defined in Section [73-29-102](#).
- 34            (iv) "Recreational purpose" includes one or more of the following:
- 35            (A) hunting;
- 36            (B) fishing;
- 37            (C) swimming;
- 38            (D) skiing;
- 39            (E) snowshoeing;
- 40            (F) camping;
- 41            (G) picnicking;
- 42            (H) hiking;
- 43            (I) studying nature;
- 44            (J) engaging in water sports;
- 45            (K) mountain biking; or
- 46            (L) viewing or enjoying historical, archaeological, scenic, or scientific sites.
- 47            (b) Terms defined in Sections [76-1-101.5](#) and [76-6-201](#) apply to this section.
- 48            (2) An actor is guilty of criminal trespass if for recreational purposes, under
- 49 circumstances not amounting to a greater offense, and without authorization or a right under
- 50 state law:
- 51            (a) the actor touches or remains unlawfully on private property to which access is
- 52 restricted in violation of Section [73-29-201](#) and:
- 53            (i) intends to cause annoyance or injury to a person or damage to property;
- 54            (ii) intends to commit a crime, other than theft or a felony; or
- 55            (iii) is reckless as to whether the actor's presence will cause fear for the safety of

56 another; or  
57 (b) knowing the actor's touching or presence is unlawful, the actor touches or remains  
58 on private property to which notice against entering is given by:  
59 (i) personal communication to the actor by the owner or someone with apparent  
60 authority to act for the owner;  
61 (ii) fencing or other enclosure obviously designed to exclude intruders; or  
62 (iii) posting of signs reasonably likely to come to the attention of intruders.  
63 (3) A violation of Subsection (2) is a class B misdemeanor.  
64 (4) It is a defense to prosecution under this section that:  
65 (a) (i) the private property was at the time open to the public; and  
66 (ii) the actor complied with all lawful conditions imposed on access to or remaining on  
67 the private property;  
68 (b) the actor acted in compliance with an express easement; or  
69 (c) the actor touched the private property as allowed by Section [73-29-202](#).  
70 (5) In addition to an order for restitution under Section [77-38b-205](#), an actor who  
71 violates Subsection (2) is also liable for:  
72 (a) statutory damages in the amount of the greater of:  
73 (i) three times the value of damages resulting from the violation of Subsection (2); or  
74 (ii) \$500;  
75 (b) reasonable attorney fees not to exceed \$250; and  
76 (c) court costs.  
77 (6) Civil damages under Subsection (5) may be collected in a separate action by the  
78 private property owner or the owner's assignee.